



***COMMONWEALTH of VIRGINIA***  
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**MEMORANDUM**

**TO: BRIAN MCCORMICK**  
Regulatory Supervisor  
Department of Medical Assistance Services

**FROM: Usha Koduru**  
Assistant Attorney General  
Office of the Attorney General

**DATE: July 7, 2011**

**SUBJECT: Emergency Regulation to Implement the Electronic Claims Submission Requirement**

I have reviewed the attached emergency regulations concerning the Electronic Claims Submission Requirement. Based on that review, it is my view that the Director, acting on behalf of the Board pursuant to Virginia Code § 32.1-324, has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act and has not exceeded that authority.

The authority for this emergency action is found in Va. Code § 2.2-4011. The amendments under consideration will enable DMAS to require electronic submission and payment of provider claims with the exception of waivers for good cause. Item 300 H of the 2011 Virginia Appropriations Act gives DMAS the authority for these regulations, as well as outlines DMAS' discretion.

Accordingly, these regulations qualify for the "emergency" exemption from Article 2 requirements. A Notice of Intended Regulatory Action relating to the proposed replacement

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regulations must be filed with the Registrar within sixty days of the effective date of the emergency regulations, and appears to already have been so filed at the same time as the emergency regulations. The proposed replacement regulations must be filed with the Registrar within 180 days after the effective date of the emergency regulations. This regulation will amend the State Plan; therefore, approval by the Centers for Medicare and Medicaid Services also will be required.

If you have any additional questions, please contact me at 786-4074.

cc: Kim F. Piner, Esquire

Attachment